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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,066	09/26/2001	James D. Thomas	PIONEER/TGP	1436

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EXAMINER
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RIVELL, JOHN A

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 08/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/964,066

Applicant(s)

THOMAS, JAMES D.

Examiner

John Rivell

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 6/16/03 (election of invention/species).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) 15-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-10 and 12-14 is/are rejected.
- 7) ☒ Claim(s) 4 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: \_\_\_\_\_

Art Unit: 3753

Applicant's election without traverse of the invention of Group I, and the further election of the species of Group A, claims 1-14 in Paper No. 6, filed June 16, 2003 is acknowledged.

Claims 15-86 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6, noted above.

The drawings are objected to as set forth on the attached Draftsperson's Review PTO-948. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 5-7 are rejected under 35 U.S.C. §102 (b) as being anticipated by Roll (3,216,025 cited by applicant).

The patent to Roll discloses "a modular plumbing assembly for connection to a plumbing fixture, the assembly comprising two pre-configured water pipes (14) and a pre-configured drain pipe (16), all held in a generally predetermined spatial relationship to each other by at least one rigid bracket (20 or 22) so that the plumbing assembly is at

an appropriate finished height and orientation for connection to the plumbing fixture" as claimed in claim 1.

Regarding claim 2, Roll discloses that "each of the water pipes (14) further comprises an angled, lateral water pipe fixture extension (at "T" fitting 34) of predetermined length and an air chamber (read on the inside of the pipes 14 between the "T" fitting and the upper end sealing cap shown in figure 1) at predetermined locations thereon, and the drain pipe (16) further comprises an angled, lateral drain connection (elbow 30) of predetermined length at a predetermined location thereon" as claimed in claim 2.

Regarding claim 3, Roll discloses that "each of the water pipe fixture extensions ("T" fitting 34) and the drain connection (elbow 30) further comprises a sealed outer end" read as the sealing caps on pipes 14 and the sealed curved portion of the elbow 30, as claimed in claim 3.

Regarding claim 5, Roll discloses that the "at least one bracket (20 or 22) comprises a base (read on the portion of brace 20 or 22 from the rightmost end leg 46, each offset 44 and bulbous portion 46 to the left most end leg 46) including each with a plurality of openings (44, 46) configured thereon to secure each of the water pipes (14) a predetermined distance from the drain pipe(16)" as claimed in claim 5.

Regarding claim 6 Roll discloses that "the bracket (20 or 22) further comprises at least one leg (a rightmost leg contiguous with the rightmost leg 46 and leftmost leg contiguous with the leftmost leg 46) contiguous with an end of the base, the at least one

Art Unit: 3753

leg forming an approximate 90 degree angle with the base and further comprising a means (hole(s) 58) to secure the bracket to a frame member (12) as claimed in claim 6.

Regarding claim 7, while Roll is silent as to the materials of the water pipes 14 and drain pipe 16, it is believed inherent that at least the water pipes 14 are "copper" and the drain pipe 16 is "cast iron" given the filing date of the reference as March 1963 and that copper water pipes and cast iron drain pipes are practically industry standards. Clearly then the "water pipes, water pipe extensions and air chambers are manufactured from a material selected from the group consisting of: copper, stainless steel, polyvinylchloride, butylene, poly-butylene and chlorinated polyvinylchloride; and the drain pipe and the drain pipe connection are manufactured from a material selected from the group consisting of: polyvinylchloride, copper and cast iron" as claimed in claim 7.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roll. The patent to Roll discloses all the claimed features with the exception of having a "secondary" duplicate plumbing module for connection to the disclosed plumbing module. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ multiple modules for interconnection for the purpose of a multiplied effect, since it has been held that mere

Art Unit: 3753

duplication of the essential working parts of a device involves only routine skill in the art.

St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.


Claims 4 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (703) 308-2599. The examiner can normally be reached on Mon.-Thur. from 6:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Bertsch can be reached on (703) 308-0861. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

  
John Rivell  
Primary Examiner  
Art Unit 3753

j.r.